

Municipal Clerk  
Atlanta, Georgia

**02-0 -1554**

**AN ORDINANCE**

**UEZ-02-06**

**BY THE COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE**

**AN ORDINANCE TO CREATE "THE PEAKS AT MARTIN LUTHER KING HOUSING ENTERPRISE ZONE", TO BE LOCATED AT 2429 (a.k.a. 2424) MARTIN LUTHER KING, JR. DRIVE (AT HAMILTON E. HOLMES DRIVE), AND FOR OTHER PURPOSES.**

**WHEREAS** an amendment to the Constitution of the State of Georgia was adopted by referendum in November 1982 giving the Council of the City of Atlanta power to create urban enterprise zones in the City of Atlanta; and

**WHEREAS** enabling legislation known as the Atlanta/Fulton County Urban Enterprise Zone Act was enacted by the Georgia General Assembly and signed by the Governor in March 1983 and subsequently amended; and

**WHEREAS** the Atlanta/Fulton County Urban Enterprise Zone Act gives the Council of the City of Atlanta the authority to designate areas within the City as urban enterprise zones for housing purposes if certain conditions are met; and

**WHEREAS** the designation of a housing enterprise zone exempts the taxable value of property within the zone only from ad valorem taxes for City purposes, but the Board of Commissioners of Fulton County, by appropriate resolution, may exempt from ad valorem taxation for County purposes the taxable value of the same property that is exempted by the City; and

**WHEREAS** certain types of property may be exempted, conditions must be met by owners of private property to qualify for an exemption, period, and rate of exemptions, and elections may be made by the Atlanta City Council among various types of exemptions which are specified by State law; and

**WHEREAS** State law provides that an exemption from ad valorem taxation for City purposes also includes, but is not limited to, school and educational purposes; and

**WHEREAS** the City of Atlanta Development Impact Fee Ordinance provides that, under certain conditions, the City may exempt development in urban enterprise zones from the requirement to pay development impact fees; and

**WHEREAS** it is the expressed intent of the Atlanta City Council to use urban enterprise zone legislation as an incentive to generate private investment in areas of the City which otherwise might not attract such investments for commercial construction and job creation purposes; and

**WHEREAS** the conditions and qualifications of the Atlanta/Fulton County Urban Enterprise Zone Act, as amended, have been met relative to the creation of "The Peaks at Martin Luther King Housing Enterprise Zone";

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA,  
HEREBY ORDAINS AS FOLLOWS:**

**Section 1:** It is found by the Council of the City of Atlanta that the area in and around the property that would be designated as "The Peaks at Martin Luther King Housing Enterprise Zone" is economically and socially depressed. It is further found that areas such as this contribute to or cause unemployment, create an inordinate demand for public services and, in general, have a deleterious effect on the public health, safety, welfare, and morals. It is further found that these areas, as is the case with the property that would be designated as "The Peaks at Martin Luther King Housing Enterprise Zone" are characterized by having no investment or under-investment by private enterprise in ventures which produce jobs, trade, provision of services, and economic activities which individually and together contribute to a healthy society. This lack of private investment and activity contributes to social and economic depression in such areas. Therefore, it is in the public interest that incentives be provided to private enterprise to invest in such areas, and that such private enterprise place priority upon the employment of those residents in those economically- and socially-depressed areas designated herein as urban enterprise zones.

**Section 2:** "The Peaks at Martin Luther King Housing Enterprise Zone" is hereby created for the subject property. The effective date of all exemptions established therein shall be January 1, 2003. The Peaks at Martin Luther King Housing Enterprise Zone shall be abolished on December 31, 2012. The Peaks at Martin Luther King Housing Enterprise Zone shall otherwise not be abolished except as provided in State law. A legal description of The Peaks at Martin Luther King Housing Enterprise Zone is attached hereto as Exhibit "A", and made a part hereof, and shall be on file in the Bureau of Planning and the Office of the Municipal Clerk.

**Section 3:** The Municipal Clerk is hereby directed to transmit a copy of this Ordinance as well as the legal description of The Peaks at Martin Luther King Housing Enterprise Zone to the Tax Commissioner of Fulton County, to the Commissioner of the Department of Community Affairs of the State of Georgia, and to the Superintendent of the Atlanta Board of Education immediately upon the approval by the Mayor of the City of Atlanta.

**Section 4:** That all ordinances and parts of ordinances that are in conflict herewith are hereby repealed.

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Deed from West Lumber Company  
to West Enterprises, Inc.  
dated December 1, 1974

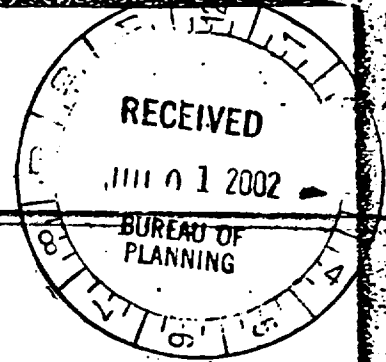


EXHIBIT A

All that tract or parcel of land lying and being in Land Lot 205 of the Fourteenth (14th) District of Fulton County, Georgia, and more particularly described as follows:

2462727

COMMENCING at the Northeast corner of Hightower & Gordon Road; thence extending Northerly One Thousand One and Three Tenths (1001.3) feet, more or less, along the East side of the Hightower Road to the South line of the right of way owned by the A. B. & C. Railroad; thence Easterly following the south line of said Railroad Five Hundred and Thirty-five and five tenths (535.5) feet, more or less, to Land Lot Line between Land Lots 205 and 180; thence extending South Nine Hundred and Ninety-eight (998) feet more or less to the Gordon Road; thence extending Westerly along the North side of Gordon Road and running with the curve of said Road Five Hundred Forty-two (542) feet more or less to the Hightower Road and the point of beginning. Said tract or parcel of land containing twelve and seventy nine hundredths (12.79) acres of land, more or less.

ALSO, all that tract or parcel of land lying and being in the County of Fulton, State of Georgia, and more particularly described as follows:

COMMENCING on the East side of Hightower Road at a point Four Hundred Eight (408) feet more or less South of the Land Lot Line between Land Lots 205 and 206; thence extending Northwesterly along the North-easterly side of the Hightower Road to the South Line of the right of way owned by the A. B. & C. Railroad; thence extending Easterly along the South Line of said Railroad Company's right of way to Land Lot line of the Garrison property; thence extending South along the West line of said Garrison property to the Hightower Road and the point of beginning.

This property is the same as described in Deed from Richard E. Manston to West Lumber Company, dated July 22, 1911, and recorded in Book 311, Page 427, in the Clerk's Office of the Superior Court of Fulton County, Georgia.

ALSO: All that tract or parcel of land lying and being in Land Lot 180 of the 14th District of Fulton County, Georgia, and known as Lots Nos. 16-17-18-19-20-21-27 of the Land of the Traders Company of Atlanta, Georgia, as per plat by J. C. Conn, C. E. of file and record in Plat Book 4, Page 196 & 197 in the office of the Clerk of the Superior Court of Fulton County, Georgia, also what is indicated on said Plat as West Haven Avenue, and more particularly described as follows:

BEGINNING at a point on the Northeasterly side of Gordon Street Seven Hundred & Two (702) feet Southwesterly from the Northwest corner of Gordon Street and Fairfield Place; thence North Two Hundred Ninety-Two (292) feet to the South line of Lot 21; thence Northeasterly along the South line of Lot 21 Three Hundred Fifty (350) feet to the intersection of Lots 21-22-12-13 of the same plat; thence North Four Hundred & Twenty-four (424) feet more or less to the right of way of the A. B. & C. Railroad; thence Northwesterly along said right of way One Hundred Sixty (160) feet more or less to a point as indicated on said plat; thence Southerly Twenty-five (25) feet, thence Northwesterly still continuing

(Continued)

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(Continued)

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along said right of way Two Hundred Ninety (290) feet to the West side of West Haven Ave.; thence South along the West side of West Haven Ave., Nine Hundred Fifty (950) feet more or less to the corner of Gordon Street, thence slightly Northeastly along the Northerly side of Gordon Street, One Hundred Ten (110) ft. to point of beginning.

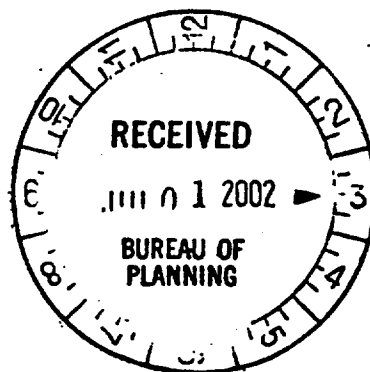
2462727  
This is the same property as described in Warranty Deed from The Traders Company of Atlanta, Georgia to the West Lumber Company, a partnership, dated March 26, 1914, and recorded in the Clerk's Office of the Superior Court of Fulton County, in Book 592, Page 123, and not only includes the above lots referred to, but also includes that portion indicated in the plat as street, called West Haven Avenue, which street has been in possession of the original purchaser, West Lumber Company or assigns, and same owners on both sides for more than twenty years.

Excepted from this description are two tracts previously sold at the corner of Hightower Road and Gordon Road, the corner is the southwest corner of this property, but the northeast corner of these roads. One piece of property was one hundred ten feet frontage on Gordon Road and the other was forty feet of frontage on Gordon Road, both of them having a depth of one hundred ten feet.

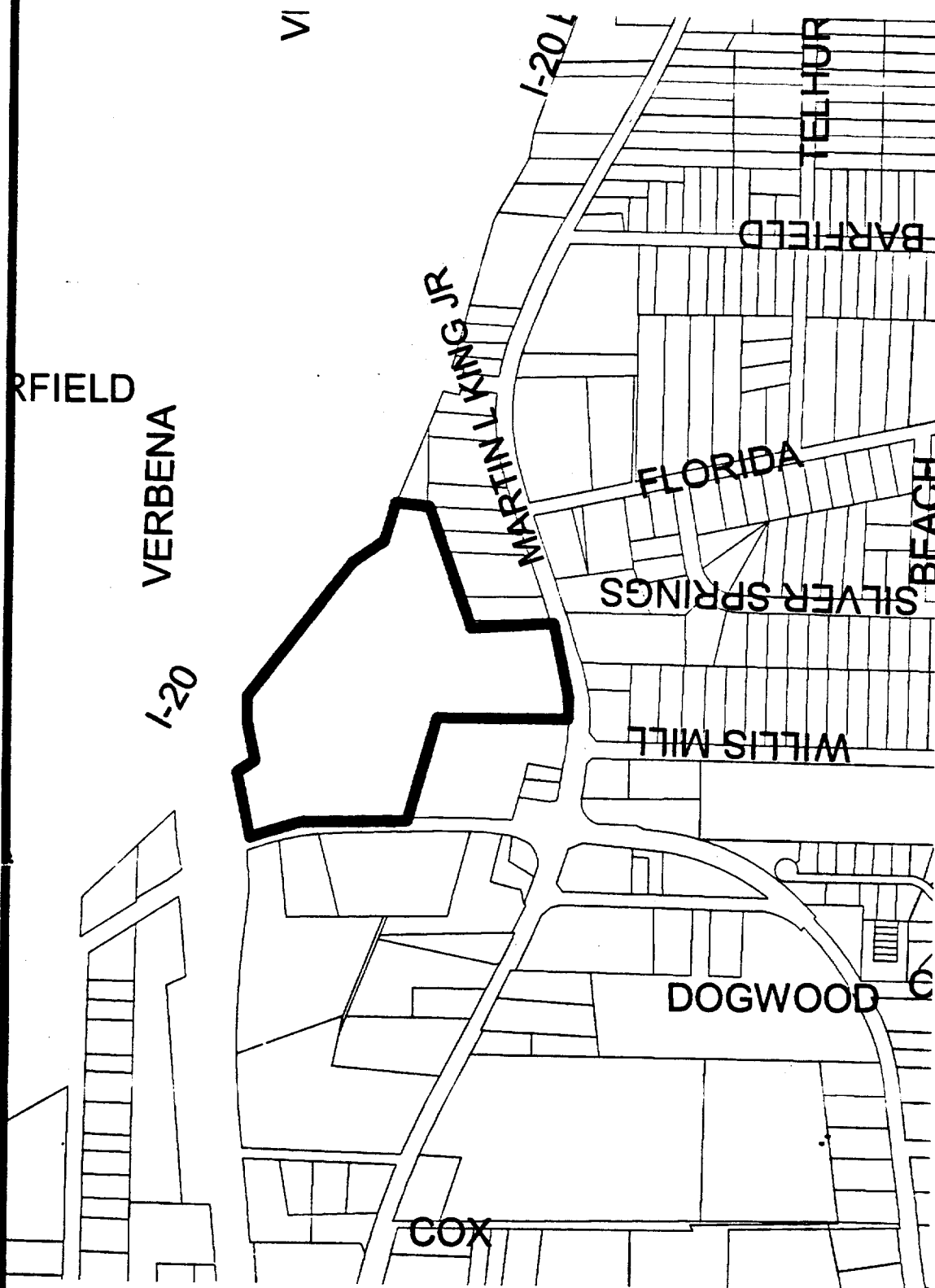
Being all of that parcel of real property transferred from Mrs. S. T. West, also known as Mrs. Mary Clark Russell West, to West Lumber Company Incorporated, by deed dated January 16, 1950 and recorded in Deed Book 1909, page 195, Fulton County, Georgia records; and being all of that parcel of real property transferred from Mrs. H. J. West, also known as Mrs. B. T. West, George W. West and George W. West, Sr., Executor of the Estate of Mrs. Cora B. West to West Lumber Company by deed dated January 16, 1950, and recorded in Book 2518, Pages 139 and 140 and 141, Fulton County, Georgia, Records.

LESS AND EXCEPT all that tract or parcel of land conveyed by Warranty Deed from West Lumber Company to Charles B. West, Trustee U/A dated January 9, 1954, dated September 27, 1962, and recorded in Deed Book 3947, Pages 482 and 483, Fulton County, Georgia, records, lying and being in Land Lot 205 of the 14th District of Fulton County, Georgia, and more particularly described as follows:

BEGINNING at a point on the north side of Gordon Road one hundred fifty (150) feet east, as measured along the north side of Gordon Road, from the northeast corner of the intersection of Gordon Road two hundred (200) feet; thence north four hundred (400) feet; thence west three hundred fifty (350) feet; more or less, to the east side of Hightower Road; thence south along the east side of Hightower Road two hundred ninety (290) feet; thence east one hundred fifty (150) feet; thence south one hundred ten (110) feet to the north side of Gordon Road and the point of beginning.



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# THE PEAKS AT MLK

## UEZ-02-06

**EVALUATION OF THE PROPOSED  
"THE PEAKS AT MARTIN LUTHER KING HOUSING ENTERPRISE ZONE"**

<b>CRITERION</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>COMPLIANCE</b>
1. <u>Eligibility Criteria:</u>  a. Evidence of Pervasive Poverty  b. Unemployment  c. General Distress  d. Underdevelopment	<u>Must meet 3 of the 4 Criteria:</u>  a. Poverty rate of $\geq 20\%$ for the Census Block Group. b. Unemployment: <ul style="list-style-type: none"> <li>Census Tract having at least 10% higher than the State Average; OR</li> <li>Significant Job Loss, to be documented by the applicant.</li> </ul> c. General Distress: <ul style="list-style-type: none"> <li>High Crime within the police beat/zone; OR</li> <li>Vacant and/or Dilapidated Structures, or Deteriorated Infrastructure, based on documented proof of existing abandoned and/or dilapidated structures within one block of the project area, or deteriorated infrastructure.</li> </ul> d. Underdevelopment: The NPU has $\leq 20\%$ of the amount of Development Activity compared to the City as a whole.	a. Poverty rate of $\geq 30\%$ for Census Block Group 1 of Census Tract 81.02. Meets this criterion.  b. Unemployment rate of 5.4% for Census Tract 81.02. Meets this criterion.  c. Crime rate of only -15.8% for Police Beat/Zone 405. No documentation was submitted by the applicant to demonstrate the presence of existing abandoned and/or dilapidated structures, or of deteriorated infrastructure, within one block of the project area. Does not meet this criterion.  d. Development activity of -3% for residential development within NPU "I" compared with the City.	Meets 3 of the 4 required criteria:  Meets Criteria #a, #b, & #c.  √
2. Acreage	None.	10.85 acres of land.	√
3. CDP Consistency	CDP Land Use Classification: "Low-Density Commercial." Allowed F.A.R.: 3.0.	Proposed F.A.R.: 0.430. Consistent with the CDP.	√
4. Zoning Compliance	Zoned "C-2."	C-2.	√
5. Project Specificity	Project-Specific Zone or $\geq 50\%$ of Areawide Zone	Project-Specific.	√
6. Non-Displacement	Minimum Displacement	None.	√
7. Job Creation	First Source Jobs Policy	Not Applicable.	√
8. Financial Feasibility	<u>Chief Financial Officer's Statement of Fiscal Impact:</u> a. Negative cash flow; OR b. Debt coverage ratio $< 1.20$ ; OR c. A variable-ratio debt coverage ratio that is equivalent to said fixed-rate ratio, based upon reasonable assumptions as certified.	To be determined.	To be determined.

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## CITY OF ATLANTA

DEPARTMENT OF PLANNING, DEVELOPMENT AND NEIGHBORHOOD CONSERVATION

68 MITCHELL STREET, S.W. SUITE 3350 • ATLANTA, GEORGIA 30335-0308

404-330-6145 • FAX: 404-658-7491

SHIRLEY FRANKLIN  
MAYOR

Commissioner

TIM POLK  
Acting Commissioner

Director

Bureau of Planning

July 16, 2002

Mr. Chase Northcutt  
MLK Drive Apartments Limited Partnership  
C/o RHA/Housing, Inc.  
3060 Peachtree Road, NW, Suite 900  
Atlanta, Ga. 30305

Dear Mr. Northcutt

We have received your application for designation of The Peaks at Martin Luther King housing enterprise zone. Our staff is currently reviewing the application with regard to the City's criteria for urban enterprise zone designation.

We have scheduled your presentation of the application to Neighborhood Planning Unit (NPU) I on Wednesday, August 14, 2002 at 7:00 p.m. at Usher Middle School, located at 631 Harwell Road, NW. The chair of NPU - I is Andrew Fellers, who can be reached at (404) 696-6017. Please be present at the NPU - I meeting to briefly present your proposal and to answer any questions regarding your application.

Additionally, the Community Development and Human Resources Committee of the Atlanta City Council will hold a public hearing on your application on Monday, September 23, 2002 at 6:00 p.m. in the Council Chambers at City Hall. Please be present at the hearing to briefly present your proposal and to answer any questions regarding this application.

Should you require any further information, please contact Linda Logan at (404) 330-6637 or Sara Wade Hicks at (404) 330-6728.

Sincerely,

  
Beverley Dockeray-Ojo  
Acting Director

cc: Tim Polk  
Sara Wade Hicks  
Linda Logan

## TRANSMITTAL FORM FOR LEGISLATION

To Mayor's Office: Greg Pridgeon/Wanda McCoy  
(For review & distribution to Executive Management)

Commissioner Signature Philip Smith for Director Signature B. N. Oj  
Department of Planning Bureau of Planning

From: Originating Dept. Department of Planning and Community Development

Contact (name): Sara Wade Hicks,  
Assistant Director—Ext. 6728

Committee of Purview: Community Development /Human Resources

Committee Meeting Dates: 9/10/02 CD; 9/23/02 public hearing; Committee Deadline: 10/26/02  
10/01/02 CD. City Council Meeting Date: 10/07/02

### CAPTION:

AN ORDINANCE BY THE COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE TO CREATE "THE PEAKS AT MARTIN LUTHER KING HOUSING ENTERPRISE ZONE", TO BE LOCATED AT 2429 (a.k.a. 2424) MARTIN LUTHER KING, JR. DRIVE (AT HAMILTON E. HOLMES DRIVE), AND FOR OTHER PURPOSES.

### BACKGROUND/PURPOSE/DISCUSSION:

Applicant MLK Drive Apartments Limited Partnership (c/o RHA Housing, Inc.) and developer MLK Drive Development, LLC propose to construct 183 new apartment units and a clubhouse, comprising 203,182 square feet of building space on 10.85 acres of land. In accordance with the requirements for housing enterprise zones, 20 percent of the new housing units would be designated as "affordable" (for moderate-income residents). The subject property is located in NPU "I", Council District 10, within Land Lot 180 of District 14. If the proposed development project is constructed, it would further the City's policy of encouraging new housing development. The estimated total project development cost is \$14,435,468. Financing would be provided by SunAmerica, Inc.

### FINANCIAL IMPACT (if any):

The Department of Finance is conducting a fiscal impact analysis for the proposed zone.  
*Mayor's Staff Only*

Received by Mayor's Office: 8/29/02 Reviewed: JS  
(Date) (Initials) (Date)

Submitted to Council: \_\_\_\_\_  
(Date)

Action by Committee: Approved Adversed Held Amended  
Substitute Referred Other